SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: O'Connell | Analyst: Kristina North | Bill Number: SB 2080

Related Bills: See previous analyses | Telephone: 845-6978 | Amended Date: 7/21/98

Attorney: Doug Bramhall | Sponsor:

SUBJECT: 1998 California Land and Water Conservation Act\Qualified Contributions Credit

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _________.

_____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

_____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _________.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO _______________________.

__X__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED FEBRUARY 20, 1998, AND AS AMENDED MAY 26 AND JUNE 16, 1998, AND JULY 9, 1998, STILL APPLY.

__X__ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&TCL), this bill would allow a tax credit to taxpayers who contribute real property to the state, approved local governments, or approved nonprofit organizations designated by the state or local government. The amount of tax credit would equal 55% of the fair market value of the qualified contribution.

This analysis addresses the provisions of the bill that pertain to the tax incentives.

SUMMARY OF AMENDMENT

The July 21, 1998, amendment removed the provision declaring that the Franchise Tax Board (FTB) could not issue an opinion that a contribution qualifies as a charitable contribution pursuant to the Internal Revenue Code (IRC) unless it received a formal ruling from the Internal Revenue Service (IRS) or a copy of a formal ruling issued by the IRS to a California taxpayer that the entire value of a contribution of qualified property could be deducted as a charitable contribution pursuant to the IRC.

The July 21, 1998, amendment specified that the amount of the credit would be equal to 55% of the FMV and removed the provision declaring that the Secretary of the Resources Agency would determine the percentage eligible for the credit, not to exceed 55% of the FMV.

The July 21, 1998, amendment made other technical changes to the PRC.

Board Position:			Department/Legislative Director	Date
________ S	________ NA	___X___ NP		
________ SA	________ O	________ NAR		
________ N	________ OUA	________ PENDING	Johnnie Lou Rosas	8/6/98

Except for the discussion of amendments above, the department's analyses of the bill as introduced February 20, 1998, and as amended May 26 and June 16, 1998, and July 9, 1998 still apply. The policy considerations that still apply and the new technical consideration arising from the amendments are stated below.

SPECIFIC FINDINGS

Technical Consideration

The department does not administer the IRC, therefore an FTB opinion whether a contribution of property would qualify as a charitable contribution pursuant to federal law would be advisory. The July 21, 1998, amendment removed the requirement for obtaining an IRS ruling on whether the entire contribution is eligible for a charitable contribution deduction. However, the bill still contains requirements that the donation of property satisfy the requirements for a deduction under the IRC and that the FTB provide an opinion that the contribution qualifies as a charitable contribution under the IRC. The reference to the FTB opinion also should be deleted.

The reference to the IRS opinion was to provide the Secretary of the Resources Agency and the taxpayer with assurances that the entire value of the contribution will be available for a charitable contribution deduction. There is a chance that the IRS *may* reduce the amount of the contribution by the tax credits received under this bill as a tangible benefit received in exchange for the credit. Without an IRS ruling, the Secretary of the Resources Agency may be unable to accept the donation unconditionally and the taxpayer would need to assess that potential risk in considering their contribution under the terms of the bill.

Policy Considerations

This bill does not include a sunset date to allow the Legislature to review the effectiveness of the credit.

This bill would provide a credit for donating land and/or water rights equal to as much as 55% of the value of the property, making a land contribution potentially six to eight times more valuable than any other kind of donation. Additionally, in combination with the federal deduction for a charitable contribution, this credit could provide some taxpayers with tax benefits of almost 95% of the value of the donated land or water rights.